

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRIMINAL MINUTES

Date: January 14, 2016 **Time:** 46 minutes **Judge:** WILLIAM H. ORRICK
1:55 p.m. to 2:41 p.m.

Case No.: [15-cr-00582-WHO-1](#) **Case Name:** UNITED STATES v. Shafi

Attorney for Plaintiff: Jeff Shih
Attorney for Defendant: Josh Dratel and Eric Levin
Defendant **Adam Shafi** - present, in custody

Deputy Clerk: Jean Davis **Court Reporter:** Debra Pas
Interpreter: n/a **Probation Officer:** Josh Libby

PROCEEDINGS

Parties appear for status conference and hearing as to appeal of Magistrate Judge Kim's detention order. The parties agree that this matter should be given a designation of "complex" and that time should be excluded under the speedy trial provision for that reason, as well as for effective preparation of counsel. The government is working through the process in Main Justice for declassification and use of wiretap information. The government has provided available discovery materials to defense counsel; discovery production will be ongoing. A Stipulated Protective Order is submitted to the Court for execution.

The Court has reviewed all the memoranda and exhibits submitted to the Magistrate Judge and for this proceeding, the transcript of the hearing below, the two CDs with nine conversations in which the defendant participated, numerous letters submitted in support of the defendant, Judge Kim's Order, the report of Pretrial Services, and all other items in the docket. Defense counsel (Dratel) heard in support of the motion. Government heard in opposition to the motion and in response to the Court's concerns regarding conditions of confinement. The recordings highlight the defendant's allegiance to the Al Nusra Front, a designated terrorist organization, his intention to escape to act on his convictions, and his hatred and disdain for the United States and/or its government. In light of the defendant's strong and in some cases disturbing convictions and his two efforts to escape in 2014 (when he flew from Egypt to Turkey, but then returned) and 2015 (when he misled his family and attempted to board a flight to Turkey), the Court concludes that he is a flight risk and that despite the combination of monitoring conditions proposed by his counsel, he should be detained. The Court affirms the decision of Magistrate Judge Kim; defendant will remain in custody.

The Court is concerned about the conditions of defendant's confinement. Defense counsel alleges that Mr. Shafi is being held in administrative segregation, which provides Mr. Shafi with one hour out of his cell every two days, that his religious material and family photographs have been confiscated, and that privileged documents have also been seized. While the prosecution states that it is not responsible for the conditions of his confinement, the Court indicates that if defense counsel has accurately portrayed what has happened, some of what has been described is not acceptable and such a limited ability to interact with others does not seem tenable for the duration of a fairly lengthy anticipated pretrial period.

The Court requests that after County Counsel and defense counsel have an opportunity to confer regarding confinement conditions, a complete explanation of the anticipated conditions of confinement be filed with the Court. Depending upon the explanation and further pleadings of counsel, the Court may revisit the possibility of some alternative confinement. The government is asked to personally convey the Court's concern to the County Counsel. While the next status conference is set for March 17, 2016, defense counsel is invited to schedule an earlier hearing concerning the conditions of Mr. Shafi's confinement if appropriate.

CASE CONTINUED TO: March 17, 2016 at 1:30 p.m. for further status conference.

EXCLUDABLE DELAY:

Category	Complexity of case and effective preparation of counsel
Begins	January 14, 2016
Ends	March 17, 2016